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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Daniel et al.
Serial No.: 09/783,354 Art Unit: 1772
Filed: February 14, 2001 Examiner: Jane Rhee
For: ORTHOGONALLY AMBIGUOUS CARPET TILE

Attorney Docket No. 14060/205649

Commissioner for Patents
BOX AF
U.S. Patent and Trademark Office
Washington, D.C. 20231

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this Response to Office Action and all documents referred to as enclosed are being facsimile transmitted to: U.S. Patent and Trademark Office on March 31, 2003, AFTER FINAL, fax no. 703-872-9311 at TC1700 (ART UNIT 1772).

Margaret A. Cogburn
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REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. 1.111

Sir:

Responsive to the Office Action dated January 23, 2003 and the Advisory Action dated March 12, 2003, counsel for Applicants' Assignee respectfully submits the following remarks in connection with the above-identified application, which counsel earnestly believes is in condition for allowance.

This patent application is very important to Applicants' Assignee, which sincerely desires early allowance without the need for appeal. Accordingly, reconsideration is requested, and the Examiner is thanked for her time and effort in considering this brief paper.

I. Refusal to Enter Amendment and Response

The March 12, 2003 Advisory Action refuses to enter the amendment of claim 1 set forth in Applicants' February 27, 2003 Amendment and Response to Office Action (the "February 27, 2003 amendment"). The Advisory Action asserts that the "[p]roposed claim 1 raises new issues because it requires that the tiles have textile faces with patterns."

This assertion that new issues were raised is not correct, because the amendment did not introduce textile faces with patterns in the claims for the first time. Prior to the proposed February 27, 2003 amendment, claim 1 read:

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1. (Twice Amended) Carpet tiles comprising **textile faces** that exhibit orthogonal ambiguity without **pattern alignment** between adjacent tiles.

Thus, claim 1 already required **textile faces**, already referred to the absence of **pattern alignment** and required "orthogonal ambiguity," which, by definition, includes the concept of patterns. Moreover, claim 5 *as filed in the original application and as pending prior to the proposed February 27, 2003 amendment of claim 1* recited carpet tile "having a pattern." Indeed, confirmation that "textile faces with patterns" already appeared in the claims and had been considered previously appears in the January 23, 2003 Office Action which explicitly references "pattern" in asserting at page 2 that "Eusemann discloses carpet tiles comprising **textile faces** . . . Eusemann discloses that each tile has a **pattern**" and at page 3, "Eusemann discloses that . . . each tile face comprises a **pattern**"

Thus, the amendment proposed for claim 1 does not raise a new issue — textile faces with patterns have been in the application from its filing and undoubtedly have been searched and considered by the Examiner.

II. The Advisory Action Incorrectly Maintains that Eusemann Teaches Orthogonal Ambiguity Without Pattern Alignment: Eusemann Teaches Only Pattern Alignment.

While failing to enter the February 27, 2003 amendment, the Action nonetheless responds to Applicants' arguments set forth in that amendment. However, the Advisory Action's "Response to Arguments" is incorrect in asserting that Eusemann teaches orthogonal ambiguity without pattern alignment between adjacent tiles.

The Advisory Action asserts that:

Eusemann discloses a scattered laying, a completely irregular laying of the tiles, which can however be based on system considerations in correspondence with the preceding types (col. 2 lines 50-54). Irregular laying of the tiles is without pattern alignment between adjacent tiles. **There is no pattern alignment when tiles are irregularly placed together.** Pattern alignment is uniformed [sic] and symmetrical whereas no pattern alignment is irregular. **Since Eusemann teaches irregular laying of the tiles,**

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Eusemann teaches laying of tiles without pattern alignment.

Advisory Action at 2 (emphasis added). While these assertions from the Advisory Action sound plausible when read, they are not correct. As the quoted language from Eusemann makes clear, the proposed "scattered laying . . . can however be based on system considerations in correspondence with the preceding types." In other words, the tiles to be "scattered" are the patterned tiles disclosed in Eusemann.

Eusemann does teach combining plain, unpatterned tiles with the patterned tiles it discloses. Col. 2, line 33. Thus, when assembled on a floor, pattern alignment between the plain tiles and patterned Eusemann tiles admittedly would not occur. However, it should be readily apparent that such an installation of plain and patterned tiles would not anticipate claim 1 because the tiles would not "exhibit orthogonal ambiguity." Rather, the seams between adjacent plain and patterned tiles would be readily apparent.

In fact, the only tiles disclosed in Eusemann that are arguably able to "exhibit orthogonal ambiguity" are the patterned tiles shown in FIGS. 1, 4, and 7, and these tiles *only* exhibit orthogonal ambiguity when they are assembled with like-patterned tiles, as shown in FIGS. 2, 3, 5, and 6.

However, like-patterned Eusemann tiles *cannot* be installed as floorcovering "scattered" or in any other manner without pattern alignment. Thus, the superficially plausible assertion of the Advisory Action that "[t]here is no pattern alignment when tiles are irregularly placed together" is simply not true. This is because there are only three ways to position square carpet tiles to cover a floor:

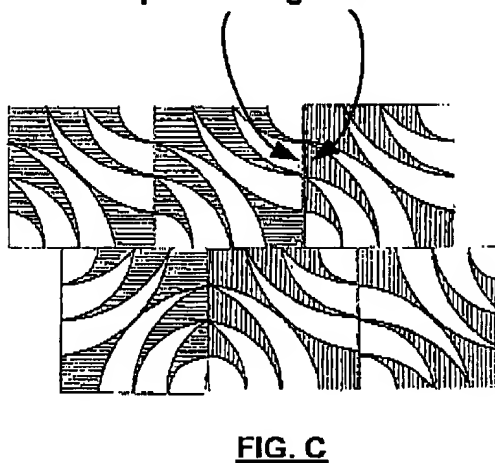
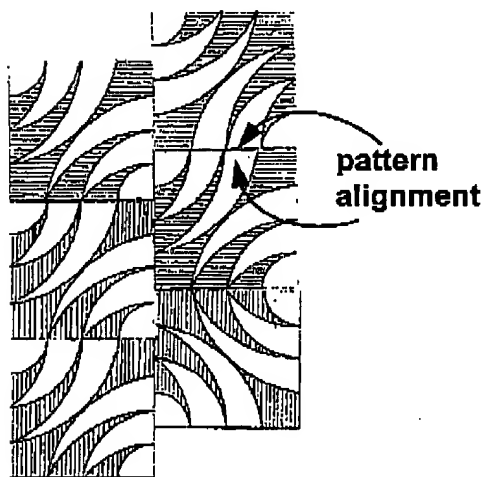
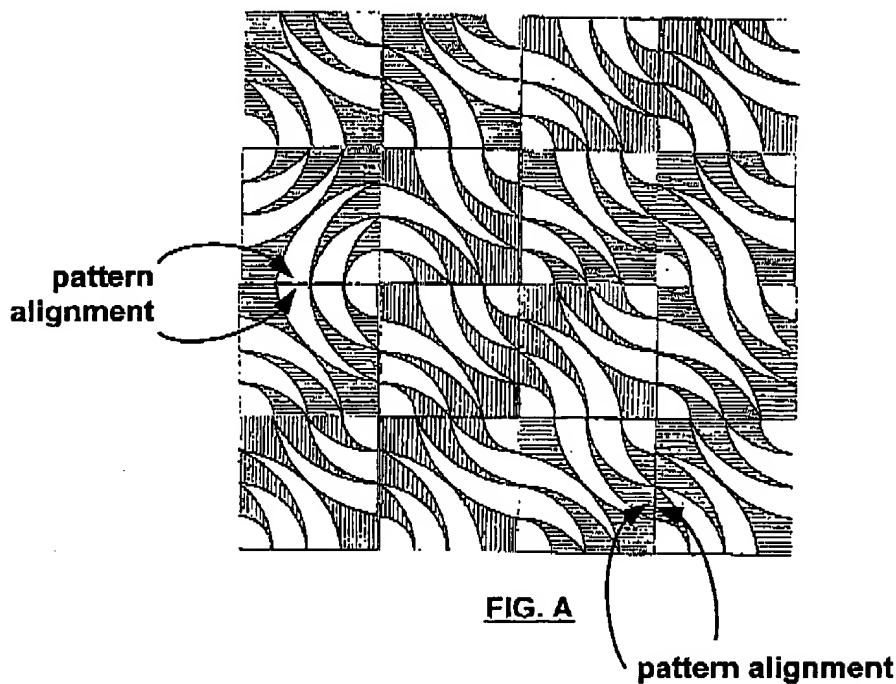
1. In aligned rows and columns;
2. In staggered, straight rows; and
3. In staggered, straight columns.

Eusemann tiles in aligned rows and columns have pattern alignment between tiles in both adjacent rows and adjacent columns (see FIG. A); Eusemann tiles in staggered, straight columns have pattern alignment between adjacent tiles within the columns (see FIG. B); Eusemann tiles in staggered, straight rows have pattern alignment between adjacent tiles within the rows (see FIG. C). FIGS. A-C respectively illustrate examples of the three possible ways, enumerated above, to position the Eusemann tiles.

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The Examiner maintains that “[s]ince Eusemann teaches irregular laying of the tiles, Eusemann teaches laying of tiles without pattern alignment.” But these figures demonstrate otherwise. Regardless of which of the three possible tile laying alternatives (enumerated above) the Examiner interprets “irregular laying” to mean, pattern alignment between adjacent tiles still occurs. Pattern alignment occurs in at least one direction in

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each example. If the Examiner remains in any doubt about whether it is **not** true that "[i]rregular laying of the tiles is without pattern alignment between adjacent tiles," then the Examiner should copy Figure A above, cut up the individual tiles and see if she is capable of placing the tiles side-by-side in any arrangement covering a surface without any pattern alignment. It cannot be done with the like-patterned Eusemann tiles. Unless gaps are left between tiles, which would be dangerous, would not provide floor covering, and certainly would not result in tiles "exhibiting orthogonal ambiguity," then the above-enumerated and illustrated three tile arrangements are the only possible arrangements of Eusemann tiles. Adjacent tiles in all of these arrangements clearly exhibit pattern alignment.

III. Conclusion

For the reasons explained above and in the February 27, 2003 amendment, the amendment proposed for claim 1 in the February 27, 2003 amendment does not raise a new issue, and thus the February 27, 2003 amendment should be entered. Counsel respectfully requests such entry.

Moreover, Counsel also respectfully observes that Eusemann fails to teach or suggest the subject matter of claim 1 at least because, for the reasons set forth above and in the February 27, 2003 amendment, the reference fails to teach or suggest carpet tiles that exhibit orthogonal ambiguity *without* pattern alignment between adjacent tiles. Thus, Eusemann does not anticipate or render obvious claim 1 or any of the claims that depend directly or indirectly from claim 1, and the Action's rejection of these claims should be withdrawn. Counsel therefore requests immediate allowance of all claims pending after deserved entry of the February 27, 2003 amendment.

Respectfully submitted,



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